

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/800,413
Filing Date	3/11/04
First Named Inventor	Elliott Glazer
Art Unit	2153
Examiner Name	Unassigned
Attorney Docket Number	035291-000016
Total Number of Pages in This Submission	

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Correction To Filing Receipt, Copy of Filing Receipt, Copy of Declaration, Copy of Patent Practitioners To Be Made Of Record Filed 9/13/04, Copy of Returned Postcard Dated 9/13/04 & Received 9/17/04
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	THELEN REID & PRIEST, LLP		
Signature			
Printed Name	Adrienne Yeung		
Date	November 24, 2004	Reg. No.	44,000

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name	Ruth Rodriguez	Date	November 24, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and



IFW

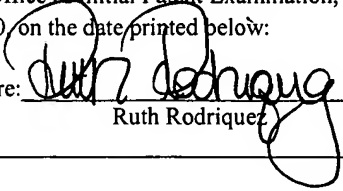
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Glazer et al
SERIAL NO.: 10/800,413
FILING DATE: 3/11/04
TITLE: VIRTUAL REALITY SHOPPING EXPERIENCE
EXAMINER: Unassigned
ART UNIT: 2153

Certificate of Mailing

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP: Office of Initial Patent Examination, P.O. Box 1450 Alexandria, VA 22313-1450 on the date printed below:

Date: November 04, 2004

Signature: 

Ruth Rodriguez

MAIL STOP: Office of Initial Patent Examination
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO CORRECT FILING RECEIPT

Applicants respectfully submit that the filing receipt contains the following errors, and correction of same is requested:

The Filing Receipt incorrectly identifies "**None**" under the Power of Attorney. Therefore, please amend the appropriate records to reflect the correct listing of attorneys for the above referenced patent application. A power of attorney (attached) was originally submitted on "**September 13, 2004**". Additionally we submit a copy of a document identifying "Patent Practitioners to be made of Record under 37 C.F.R. §1.32(c)(3)" to limit those identified to ten or fewer practitioners.

The Filing Receipt incorrectly identifies the Assignee. The correct Assignee is "**American Express Travel Related Services Company, Inc.**" and not "American Express, a Delaware Corporation as currently listed. Please amend the Filing Receipt and appropriate records to reflect the assignee as "American Express Travel Related Services Company, Inc." in the referenced patent application.

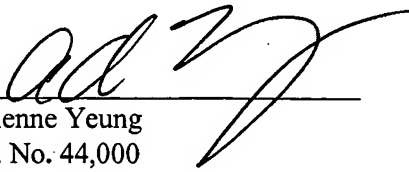
Enclosed herewith in support of the above is the following:

- An annotated copy of the filing receipt indicating the above corrections;
- Patent Practitioners To Be Made Of Record; and
- A copy of the Declaration & Power of Attorney

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST LLP


Adrienne Yeung
Reg. No. 44,000

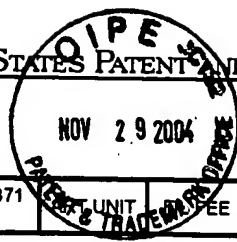
Dated: November 24, 2004

THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640
Telephone: (408) 292-5800
Fax: (408) 287-8040

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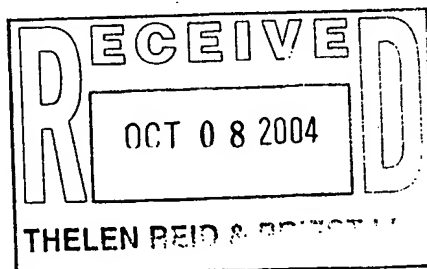
UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	UNIT	FEES REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/800,413	03/11/2004	2153	1706	035291-000016	12	60	4

ROBERT E. KREBS
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640



CONFIRMATION NO. 7057

UPDATED FILING RECEIPT



OC000000013994216

Date Mailed: 10/04/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Elliott Glazer, Chesterfield, VA;
Carol Lee Hobson, New River, AZ;
Elizabeth Sandra Deming, Brooklyn, NY;
Coby Royer, University City, MO;
Jeffrey Scott Fehlhaber, Glendale, AZ;

Assignment For Published Patent Application

~~American Express, a Delaware Corporation~~

American Express Travel Related Services Company, Inc.

Power of Attorney: None

see Patent Practitioners TO Be Made of Record

Domestic Priority data as claimed by applicant

Reviewed By: MP Date: 11/2/04

No Action Required:

Action Required: ☒ PQA, assignment

Foreign Applications

If Required, Foreign Filing License Granted: 05/28/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/800,413

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

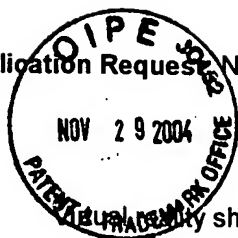
Initial IOJ _____ Date _____

CPI _____ Date _____

Excel _____ Date _____
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OCT 19 2004

Early Publication Request ☐ No

Title



Actual quality shopping experience

Preliminary Class

709

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



DOCKETED
NOV 12 2004

Serial/Patent No.: 10/800,413

Filing/Issue Date: 3/11/04

Applicant: Elliott Glazer

Title: VIRTUAL REALITY SHOPPING EXPERIENCE

TRP Docket No.: 035291-000016

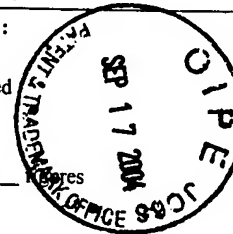
Atty/Secy Initials: AY/r

Date Mailed: 9/13/04

Docket Due Date: 8/1/04

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- | | |
|---|---|
| <input type="checkbox"/> Amendment/Response (____ pgs.) | <input type="checkbox"/> IDS & PTO 1449 (____ pgs.) |
| <input type="checkbox"/> Appeal Brief (____ pgs.) (in triplicate) | <input type="checkbox"/> ____ Pieces of Prior Art Enclosed |
| <input type="checkbox"/> Application - Utility (____ pgs. with cover & abstract) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Application - Rule 1.53(b) Continuation (____ pgs.) | <input type="checkbox"/> Submission of Formal Drawings:
____ # of sheets includes ____ |
| <input type="checkbox"/> Application - Rule 1.53(b) Division (____ pgs.) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Application - Rule 1.53(b) CIP (____ pgs.) | <input checked="" type="checkbox"/> Postcard |
| <input type="checkbox"/> Application - Rule 1.53(d) CPA (____ pgs.) | <input type="checkbox"/> Preliminary Amendment (____ pgs.) |
| <input type="checkbox"/> Application - PCT (____ pgs.) | <input type="checkbox"/> Reply Brief (____ pgs.) |
| <input type="checkbox"/> Application - Provisional (____ pgs.) | <input type="checkbox"/> Req and Cert. Not to Publish - Rule 1.213 |
| <input type="checkbox"/> Assignment and Cover Sheet | <input type="checkbox"/> Request for Continued Examination (RCE) (____ pgs.) |
| <input type="checkbox"/> Certificate of Correction | <input checked="" type="checkbox"/> Request for Extension of Time 2 Month(s) |
| <input type="checkbox"/> Certificate of Mailing | <input checked="" type="checkbox"/> Response to Notice to File Missing Parts |
| <input checked="" type="checkbox"/> Declaration & POA (4 pgs.) | <input checked="" type="checkbox"/> Copy of PTO Notice to File Missing Parts |
| <input checked="" type="checkbox"/> Fee Transmittal (in duplicate) | <input checked="" type="checkbox"/> Transmittal Letter (original & copy) |
| <input type="checkbox"/> Drawings (informal):
____ # of sheets includes ____ figures | <input type="checkbox"/> Express Mail No.: ____ |
| <input checked="" type="checkbox"/> Other: | <input checked="" type="checkbox"/> Check(s) \$2126 Check # 316451 Check # 316454 |
- PATENT FRACTIONERS TO BE MADE OF RECORD
PURSUANT TO 37 C.F.R. § 1.32(c)(3)**
- Patent Code: 1001, 1202, 1201, 1051, 1252
Client/Matter # 35291 - 016





Docket No. 035291-000016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Elliott Glazer
SERIAL NO.: 10/800,413
FILING DATE: 3/11/04
TITLE: VIRTUAL REALITY SHOPPING EXPERIENCE
EXAMINER: Unassigned
ART UNIT: Unassigned

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as First Class
Mail in an envelope addressed to: MAIL STOP: MISSING PARTS, Commissioner for Patents, P.O. Box
1450 Alexandria, VA 22313-1450, on the date printed below:

Date: September 13, 2004

Name:

Ruth Rodriguez

**MAIL STOP MISSING PARTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

**PATENT PRACTITIONERS TO BE MADE OF RECORD
PURSUANT TO 37 C.F.R. § 1.32(c)(3)**

Please recognize the following five patent practioners in the attached Declaration and
Power of Attorney as being of record in the application or patent to which the power of attorney
is directed:

Robert E. Krebs, Reg. No. 25,885
Marc S. Hanish, Reg. No. 42,626
John P. Schaub, Reg. No. 42,125
Thierry K. Lo, Reg. No. 49,097
Adrienne Yeung, Reg. No. 44,000



Docket No. 035291-000016

DECLARATION & POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My correct city and state of residence, my post office address and my citizenship are stated below next to my name.

I believe myself to be the original, first and sole inventor (if only one name is listed below) or an original and first joint inventor (if more than one name is listed below) of the subject matter which is disclosed and claimed and for which a patent is sought on the invention entitled:

"VIRTUAL REALITY SHOPPING EXPERIENCE"

The specification of this subject matter:

- ☒ is attached hereto.
- ☐ was filed on _____;
- was assigned serial No. _____;
- which was amended on . _____;

I hereby state that I have reviewed and understand the contents of the above-identified patent application, including the claims, as amended by any amendment(s) referred to above. I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with 37 C.F.R. §1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION(S)

Priority Claimed

Number	Country	Month/Day/Year Filed	Yes	No
Number	Country	Month/Day/Year Filed	Yes	No
Number	Country	Month/Day/Year Filed	Yes	No

PROVISIONAL PATENT APPLICATION(S)

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

Application Number	Filing Date
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PARENT PATENT APPLICATION(S)

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in these prior United States application(s) in the manner provided by 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

Application No.	Filing Date	Status (Issued, Pending, Abandoned)
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Application No.	Filing Date	Status (Issued, Pending, Abandoned)
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Application No.	Filing Date	Status (Issued, Pending, Abandoned)
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Application No.	Filing Date	Status (Issued, Pending, Abandoned)
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I hereby appoint David B. Ritchie, Registration No. 31,562; Robert E. Krebs, Registration No. 25,885; Marc S. Hanish, Registration No. 42,626; John P. Schaub, Registration No. 42,125; Adrienne Yeung, Registration No. 44,000; Steven J. Robbins, Registration No. 40,299; Thierry K. Lo, Registration No. 49,097; William Samuel Niece, Registration No.: 47,824; J. Davis Gilmer, Registration No. 44,711; William E. Winters, Registration No. 42,232; Masako Ando, (37 C.F.R. §10.9 (b)); and John Klaas Uilkema, Registration No. 20,282; Becky L. Troutman, Registration No. 36,703; Hal J. Bohner, Registration No. 27,856; as attorneys of record with full power of substitution and revocation, to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith. If this application is assigned by me I agree and understand that the above-named attorneys will represent the assignee and not me.

Please send all correspondence and direct all telephone calls to:

(Robert E. Krebs)
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Telephone: (408) 292-5800
Facsimile: (408) 287-8040

I, the undersigned, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

**FULL NAME OF FIRST Name
INVENTOR 1****MIDDLE Initial(s)****LAST Name**

<u>Elliott</u>	<u>Glazer</u>
RESIDENCE AND City	Country of Citizenship

<u>Chesterfield</u>	<u>Virginia</u>	<u>USA</u>
POST OFFICE Number and Street	City	State or Country

<u>12200 Chiasso Way</u>	<u>Chesterfield</u>	<u>Virginia</u>	<u>23838</u>
--------------------------	---------------------	-----------------	--------------

**FULL NAME OF FIRST Name
INVENTOR 2****MIDDLE Initial(s)****LAST Name**

<u>Carol</u>	<u>Lee</u>	<u>Hobson</u>
RESIDENCE AND City	State or Foreign Country	Country of Citizenship

<u>New River</u>	<u>Arizona</u>	<u>USA</u>
POST OFFICE Number and Street	City	State or Country

<u>43822 N. 18th St.</u>	<u>New River</u>	<u>Arizona</u>	<u>85087</u>
-------------------------------------	------------------	----------------	--------------

**FULL NAME OF FIRST Name
INVENTOR 3****MIDDLE Initial(s)****LAST Name**

<u>Elizabeth</u>	<u>Sandra</u>	<u>Deming</u>
RESIDENCE AND City	State or Foreign Country	Country of Citizenship

<u>Brooklyn</u>	<u>New York</u>	<u>USA</u>
POST OFFICE Number and Street	City	State or Country

<u>209 Congress St.</u>	<u>Brooklyn</u>	<u>New York</u>	<u>11201</u>
-------------------------	-----------------	-----------------	--------------

**FULL NAME OF FIRST Name
INVENTOR 4****MIDDLE Initial(s)****LAST Name**

<u>Coby</u>	<u>Royer</u>
RESIDENCE AND City	Country of Citizenship

<u>University City</u>	<u>Missouri</u>	<u>USA</u>
POST OFFICE Number and Street	City	State or Country

<u>7833 Stanford Ave.</u>	<u>University City</u>	<u>Missouri</u>	<u>63130</u>
---------------------------	------------------------	-----------------	--------------

**FULL NAME OF FIRST Name
INVENTOR 5****MIDDLE Initial(s)****LAST Name**

<u>Jeffrey</u>	<u>Scott</u>	<u>Fehlhaber</u>
RESIDENCE AND City	State or Foreign Country	Country of Citizenship

<u>Glendale</u>	<u>Arizona</u>	<u>USA</u>
POST OFFICE Number and Street	City	State or Country

<u>5403 W. Topeka Dr.</u>	<u>Glendale</u>	<u>Arizona</u>	<u>85308</u>
---------------------------	-----------------	----------------	--------------

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


FIRST INVENTOR
Elliott Glazer

8-30-04
Date

SECOND INVENTOR
Carol Lee Hobson

Date

THIRD INVENTOR
Elizabeth Sandra Deming

Date

FOURTH INVENTOR
Coby S. Royer

Date

FIFTH INVENTOR
Jeffrey Scott Fehlhaber

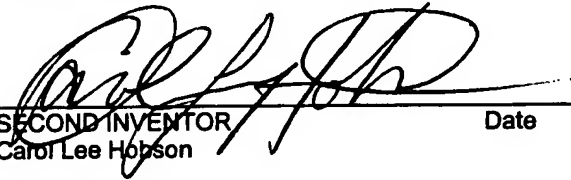
Date

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Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FIRST INVENTOR
Elliott Glazer

Date



FEBRUARY 20, 2004

SECOND INVENTOR
Carol Lee Hopson

Date

THIRD INVENTOR
Elizabeth Sandra Deming

Date

FOURTH INVENTOR
Coby S. Royer

Date

FIFTH INVENTOR
Jeffrey Scott Fehlhaber

Date

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FIRST INVENTOR
Elliott Glazer

Date

SECOND INVENTOR
Carol Lee Hobson

Date

THIRD INVENTOR

Elizabeth Sandra Deming

Date

Elizabeth Sandra Deming 2/17/2004

FOURTH INVENTOR
Coby S. Royer

Date

FIFTH INVENTOR
Jeffrey Scott Fehlhaber

Date

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FIRST INVENTOR

Date

Elliott Glazer

SECOND INVENTOR

Date

Carol Lee Hobson

THIRD INVENTOR

Date

Elizabeth Sandra Deming

FOURTH INVENTOR

Date

Coby Royer

FIFTH INVENTOR

Date

Jeffrey Scott Fehlhaber

6/21/2004

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FIRST INVENTOR
Elliott Glazer

Date

SECOND INVENTOR
Carol Lee Hobson

Date

THIRD INVENTOR
Elizabeth Sandra Deming

Date

FOURTH INVENTOR
Coby S. Royer

Date

FIFTH INVENTOR
Jeffrey Scott Fehlhaber

Date

Jeffrey Scott Fehlhaber 3/11/2004



37 C.F.R. §1.56

Duty to disclose information material to patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.